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UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service
Washington 25, D. C.

AMS INSTRUCTION No. 365-1

ACTION BY: All Divisions and Offices
All Employees

Types of Misconduct Which Subject an Employee to Disciplinary Action

I PURPOSE

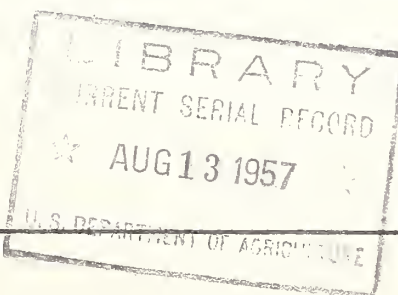
To inform employees of activities and conduct prohibited by law or by the Administrative Regulations of the Department of Agriculture.

II RESPONSIBILITIES OF EMPLOYEES

Most employees comply with laws and regulations which govern their employment. Only rarely do employees deliberately violate those laws and regulations. For protection against the possibility of violations, it is important that employees be informed about the types of misconduct for which penalties may be imposed. Exhibit A, attached, lists many such offenses, but it is not intended as a complete listing. Other examples of improper conduct may be inferred by comparison with those listed. In addition to the need to inform himself concerning this matter and to comply with the laws and regulations, an employee has the following responsibilities with respect to the actions of other employees:

A If he has reason to believe that there exists any irregularity, falsification, or discrepancy involving accountability to, or a claim on behalf of, the United States, he should report such fact immediately to the appropriate personnel office (the Washington Personnel Division or the personnel branch of the area administrative division).

B If a supervisor, he should report to the appropriate personnel office for investigation any case of known or alleged delinquency, misconduct, neglect of duty, fiscal irregularity, violation of regulations, or similar offense by an employee. Detailed instructions on the reporting procedure are given in AMS Instruction No. 360-1.



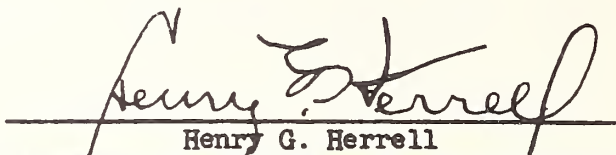
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III PENALTIES

In a few instances, the penalty prescribed by law is shown in Exhibit A. Where this is not the case, the penalty depends as a rule on the seriousness of the offense, and whether, in less serious types, it is the first, second, or third offense.


Henry G. Herrell
Assistant Administrator for Management

Partial List of Offenses Which Subject an Employee to Disciplinary Action

A POLITICAL ACTIVITY

Information on the types of political activity in which AMS employees may and may not engage is given in AMS Instruction No. 362-1, Political Activity, distributed to all employees.

B MEMBERSHIP IN ORGANIZATIONS, AND STRIKES AGAINST THE GOVERNMENT

1 Membership in Subversive Organizations. No person may be employed in the Federal Government who is a member of any political party or organization that advocates the overthrow of our constitutional form of government in the United States. An employee may not advocate, or be a member of any organization that advocates, the overthrow of the Government of the United States by force or violence.

2 Membership in Employee Organizations. Unless it is forbidden by law, an employee has the right to join any organization or association of Government employees. He also has the right to refrain from joining employee organizations. In the exercise of these rights he shall be free from all restraint, interference and coercion on the part of administrative and supervisory personnel or other employees.

3 Strikes. No employee may participate in a strike against the Government of the United States, and no employee may be a member of an organization of Government employees that asserts the right to strike against the Government.

C PERSONAL CONDUCT

1 Misconduct Generally. An employee guilty of criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct is subject to removal.

2 Drunkenness. If an employee habitually uses intoxicants to excess or uses intoxicants while on official duty, or if use of intoxicants causes interference with the performance of official duties or in any way causes embarrassment to AMS, it will be sufficient reason for the imposition of a disciplinary penalty.

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3 Indebtedness. AMS will not serve as a collection agency for debts owed by employees. However, AMS does not consider as a fit employee anyone who, without adequate reason, fails to pay just debts contracted by him.

4 Bribes. No employee may ask for or accept a bribe in connection with his official duties. This is a criminal offense punishable by fine and imprisonment.

5 Absence Without Permission.

a An employee who absents himself from duty without prior permission shall be required to submit an explanation to his supervisor, setting forth his reason for the absence and for failure to obtain permission for such absence. If the explanation is not satisfactory, the employee may be suspended without pay for the period of absence, and other disciplinary penalties may be imposed.

b An employee will be separated for abandonment of his position if he is absent from duty without permission for more than 15 workdays (holidays included) and (1) fails to be reached by or reply to communications, or (2) without adequate reason fails or refuses to return to duty after AMS has communicated with him.

c Excessive tardiness without adequate justification will be reason for disciplinary action.

6 Use of Official Telephone for Private Business. No employee may use official telephones for outgoing private messages. Important and necessary incoming messages may be received, but this privilege should not be abused.

7 Testimony Required by the Civil Service Commission. Disciplinary penalties may be imposed if an employee refuses to give information and testimony in regard to matters arising under the Civil Service Act and rules, when requested by the Civil Service Commission or its authorized representatives.

D RELATIONSHIPS WITH OTHER EMPLOYEES

1 Gifts From Subordinates to Supervisors or Those Receiving a Higher Salary. No employee in the Department shall at any time solicit contributions from other employees in the Department for a gift or present to anyone in a superior position; nor shall any such official or clerical superior

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receive any gift or present offered or presented to him as a contribution from persons in the employ of the Department receiving a less salary than himself; nor shall any officer or clerk make any donation as a gift or present to any official superior. (5 U.S.C. 113)

2 Other Favors From Subordinates to Supervisors. No employee of the Department shall place himself under obligation to a subordinate employee by borrowing money, directly or indirectly, from such subordinate employee, or by obtaining the signature of a subordinate employee as endorser or comaker of a note issued as security for a loan.

E FALSIFICATION OR DESTRUCTION OF OFFICIAL RECORDS

1 False Statements in Applications or Other Personal History Records. Disciplinary penalties may be imposed if an employee makes intentional false statements as to any material fact in securing an appointment in AMS.

2 Falsification of Other Records. Falsification of any official record or document, and concealment of material facts by omissions from official records, are grounds for disciplinary action.

3 Destruction of Records. No employee may remove, destroy, steal, or obliterate any public record.

F FISCAL IRREGULARITIES AND MISUSE OF GOVERNMENT PROPERTY

1 Fiscal Irregularities. An employee who is guilty of fiscal irregularities, falsification, or discrepancies involving accountability to, or a claim on behalf of, the United States, is subject to severe disciplinary penalties.

2 Private Use of Public Money. No employee handling funds of the United States may convert to his own use, loan, with or without interest, or deposit in any bank or exchange for other funds, any public money entrusted to him, except as specifically allowed by law. No employee may use official funds for the purpose of cashing checks of any kind, whether public or private. No employee shall carry on any trade or business not specifically authorized by law, with the funds or property of the United States. If one of an employee's duties is to collect and transmit Government funds, in no case may such funds be commingled with his personal funds. He is held personally liable for such funds and must transmit them promptly and in accordance with existing procedure.

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3 Travel. All travel necessary to the accomplishment of official duties must be performed in accordance with the Standardized Government Travel Regulations and the related requirements of AMS and the Department. Failure of an employee to secure appropriate authorization for travel performed will result in rejection of his claim for reimbursement. Furthermore, disciplinary action may be taken when unauthorized travel is performed under the pretense of official duties and reimbursement claims are submitted for such travel. Copies of Standardized Government Travel Regulations will be sent to employees upon request to the Administrative Services Division or area administrative division.

4 Misstatement on Travel Vouchers. All claims for reimbursement of money spent in travel should be made with absolute accuracy and truthfulness. Employees knowingly making untruthful statements on travel vouchers are subject to severe disciplinary penalties. In addition, the entire amount of the voucher may be disallowed and criminal prosecution by the Government may result.

5 Property Appropriated for Personal Use. An employee may not appropriate any article of Government property for his own use.

6 Misuse of Property. Except in emergencies threatening loss of life or property, no employee shall use or permit the use of Government property or equipment for any purpose other than performance of official work.

7 Use of Motor Vehicles. No employee may use or authorize the use of any motor-propelled passenger-carrying vehicle owned or leased by the Government for other than official purposes. The penalty for violation of this regulation is suspension from duty without compensation for not less than 1 month and for a longer period or removal from office if circumstances warrant. Official purposes include use in emergencies threatening loss of life or property but do not include the transportation of employees between their domiciles and places of employment, except in cases of employees engaged in field work, the character of whose duties makes such transportation necessary and then only when the use is approved by a designated official. Employees shall not store Government-owned vehicles at or near their private residences, except in certain unusual circumstances, unless approval is specifically obtained by the Administrative Services Division from the Secretary.

G INSUBORDINATION

Included in this category are (1) refusal to comply with instructions of official superior, (2) use of abusive or insulting language to official

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superior, and (3) refusal to accept detail or transfer. (Note: An employee unable to accompany an activity transferred to another geographical location is not subject to disciplinary action. However, he may be separated because of inability to make the change.)

H SPECULATION

1 General Restriction. No employee of the Department shall participate directly or indirectly in any transaction concerning the purchase or sale of corporate stocks or bonds, commodities, or other property for speculative purposes if such action might tend to interfere with the proper and impartial performance of his duties or bring discredit upon the Department. Employees are not prohibited by this paragraph from making bona fide investments. When an employee is uncertain as to whether a contemplated transaction is prohibited by this paragraph, he should consult his immediate superior.

2 Speculation in Agricultural Commodities. Because of the possible effect of certain Department programs on market prices and futures trading, speculation, either direct or indirect, in any agricultural commodity is wholly prohibited in the case of employees of the Department concerned in any way with the administration of acts regulating trading in commodities for future delivery, programs for the purchase or sale of commodities, price support programs, commodity loan programs, or other programs which directly affect market prices of agricultural commodities.

3 Statutory Provisions.

a Sugar Act. No person shall, while acting in any official capacity in the administration of this Act (the Sugar Act of 1937, as amended) invest or speculate in sugar or liquid sugar, contracts relating thereto, or the stock or membership interests of any association or corporation engaged in the production or manufacturing of sugar or liquid sugar. Any person violating this section shall upon conviction thereof be fined not more than \$10,000 or imprisoned not more than 2 years, or both. (7 U.S.C. 1151)

b Marketing Agreement Act. It is unlawful for any person while acting in any official capacity in the administration of the Agricultural Marketing Agreement Act to speculate, directly or indirectly, in any agricultural commodity or product thereof to which this act applies, or in contracts relating thereto, or in the stock or membership interests of any association or corporation engaged in handling,

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processing, or disposing of any such commodity or product. Violation of this provision is punishable by a fine of not more than \$10,000 or imprisonment for not more than 2 years, or both. (7 U.S.C. 610g)

4 Information Required To Be Withheld Until a Fixed Time. Employees having information which would influence market values of products of the soil and which by law or regulation is required to be withheld from publication until a fixed time must not (1) impart such information directly or indirectly to any person not entitled to receive the same or (2) before such information is made public, speculate in such products by buying or selling the same in any quantity. Violation of this provision is punishable by a fine of not more than \$10,000, or imprisonment of not more than 10 years, or both. (18 U.S.C. 214)

I OUTSIDE INTERESTS

1 Outside Work. If an employee wishes to perform outside work (including teaching) after official hours, he should advise his supervisor who will clear all outside work with the appropriate personnel office. An employee may not engage in outside work that might prevent efficient performance of duties as an employee of AMS or might cause the Department embarrassment. In such work it is forbidden to use official information to the detriment of the Government or to the employee's gain.

2 Relationships With Commercial Firms and Other Organizations.

a Employees whose duties require the enforcement of laws or regulations, or those who are in a position to award or influence the award of business or to take or influence the taking of any other official action that might affect favorably or unfavorably any person, firm, or corporation, shall not accept from any such person, firm, or corporation any favor, gift, loan, unusual discount, service, entertainment, or other thing of value.

b Employees shall not give or use information acquired through their official positions to advance the interests of themselves, their families, associates, or friends over those of other persons.

c Employees shall not engage in any personal business transaction or private arrangement for profit which accrues from or is based on their official positions or authorities, or on official information.

d Employees shall not discuss future employment outside the Government with a person or organization with which official business is pending.

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e Employees shall not become unduly involved through frequent luncheons, dinners, entertainment, or other social engagements with persons outside the Government with whom they have official relationships. This is not intended to prevent the exchange of usual social courtesies which are wholly free of any embarrassing or improper implications.

f Employees shall not act as agents or attorneys for prosecuting any claim against the Government, or aid or assist in the prosecution or support of such claim, except in the proper discharge of their official duties, or receive any gratuity, share, or interest in such claim in consideration of assistance in the prosecution of such claim. (18 U.S.C. 283)

3 Interested Persons Not to Transact Government Business. No employee or agent of the United States shall transact business of the Government with any corporation, joint-stock company, association, firm or partnership or other business entity if he is an officer, agent or member of, or is directly or indirectly interested in the pecuniary profits or contracts of such corporation, joint-stock company, association, firm, partnership or other business entity. This is a statutory provision, violation of which is punishable by a fine of not more than \$2,000, or imprisonment for not more than 2 years, or both. (18 U.S.C. 434)

4 Interested Persons Not To Be Assigned to Regulatory or Investigational Work. No employee of AMS shall be assigned to investigate or to conduct any regulatory work directly affecting any corporation, company, firm, association, or organization in which he has a financial or other interest. Any employee having a financial or other interest in any corporation, company, firm, or association directly affected by his work shall give written notice of such interest through his immediate superior to the Administrator of AMS.

5 Compensation of Employees by Outside Sources in Matters Affecting the Government. No employee of AMS shall, directly or indirectly, receive or agree to receive, any compensation for any services rendered or to be rendered, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter in which the United States is a party, or directly or indirectly interested, before any department, agency, or officer of the Government. This is a statutory provision, violation of which is punishable by a fine of not more than \$10,000, or imprisonment for not more than 2 years, or both. The statute further provides that whoever may violate it shall be incapable of holding any office of honor, trust, or profit, under the United States. (18 U.S.C. 281)

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6 Acting as Agent in Disposition of Surplus Property. An employee may not, during his employment with AMS or for a period of 2 years after his termination act as counsel, attorney, or agent or be employed as representative, in connection with any matter involving the disposition of surplus property by AMS, if he recommended, approved, or authorized the disposition of any surplus property during his period of employment.

7 Employment With Foreign Agencies or Individuals. No employee, whether in a duty status, on annual leave, or on leave without pay, shall accept employment with or without remuneration from any foreign government, corporation, partnership, or individual, without the prior authorization of the Secretary of Agriculture.

8 Participation in Activities of Farm Organizations. It is Department of Agriculture policy to deal fairly with all farm organizations and to deal with each upon the same basis. In conformance with that policy employees of the Department are not permitted to:

a Participate in establishing any general farm organization.

b Act as an organizer for any such general farm organization, or hold any other office therein.

c Act as financial or business agent for any general farm organization.

d Participate in any way in any membership campaign or other activity designed to recruit members for any such organization.

J EXAMINATIONS AND APPOINTMENTS

1 Examination - Inducing Withdrawals. No employee shall directly or indirectly influence any person to withdraw from competition or eligibility for any position in the competitive service for the purpose of either improving or injuring the prospects of any applicant for appointment.

2 Assistance in Examinations. An employee may not give instructions to any person with a view to his special preparation for an examination of the United States Civil Service Commission or examination of the Boards of Examiners of the Foreign Service of the Department of State unless AMS considers it necessary and useful for training and testing disabled members of the armed forces.

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3 Influencing Appointments. No employee may accept an offer of money as a consideration for influence in procuring an appointive office for another person; nor may he pay any money so as to influence procurement of a position for himself or another person.

K REQUESTS TO EITHER HOUSE OF CONGRESS

An employee may not submit estimates or requests for appropriations or legislation to Congress or any Congressional Committees unless they have been specifically requested by Congress and cleared with the Departmental Office of Budget and Finance. Such a request should be handled as any other Congressional correspondence. An employee may not use any facilities of AMS, in the absence of express authorization by Congress, to influence directly or indirectly a Member of Congress to favor by vote, or otherwise, any legislation or appropriation by Congress.

L DISTRIBUTION OF PRINTED MATERIAL

The mail and messenger service of the Department may not be used to distribute circulars, posters, or other material of employee organizations if this material (1) advertises the products, services, or facilities of a commercial firm or any profit-making organizations; (2) directly or indirectly attacks or adversely reflects on the integrity or character of the judiciary or members of the President's Cabinet, Members of Congress or any other Government official in a similarly responsible position; (3) contains expressions of a derogatory or abusive character concerning any employee in the Department; (4) directly or indirectly condemns or criticizes the policies of other departments or agencies.

M RESTRICTIONS ON ACTIVITIES OF FORMER DEPARTMENT EMPLOYEES (See also paragraph I 6 above)

1 Unethical Representation. A former employee of the Department may not represent any person before AMS or the Department in connection with any particular matter about which, by reason of his employment, he acquired personal knowledge of such a nature that it would be improper, unethical, or contrary to the public interest for him so to act.

2 Prosecuting of Claims Against the United States. Former employees are prohibited by law, for a period of 2 years after termination of employment, from:

a Acting as counsel, attorney, or agent for, or in any way aiding in, prosecuting any claim against the United States which was pending in any Federal agency while they were serving as such employees.

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b Prosecuting, or acting as counsel, attorney, or agent for prosecuting, any claim against the United States involving any subject matter with which such employee was directly connected in the performance of his duties while employed by the Department.